APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,280	07/23/2001	Jeremy Stein Cohen	00982.0004.NPUS00	5634

27194	7590	05/13/2005		

HOWREY SIMON ARNOLD & WHITE, LLP
c/o IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

EXAMINER
BAYERL, RAYMOND J

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/912,280	COHEN ET AL.
	Examiner	Art Unit	
	Raymond J. Bayerl	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 February 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 - 37</u> is/are pending in the application.

　　4a) Of the above claim(s) <u>16 - 27, 31 - 32</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 - 15, 28 - 30, 33 - 37</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All b)☐ Some * c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　　　application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.   The declaration filed on 9 February 2005 under 37 CFR 1.131 has been

considered but is ineffective to overcome the Chen et al. reference (US #6,684,206 B2).

a.   The declaration has only been signed by inventor Ashok Srivastava, while in the

present instance, MPEP 715.04 requires that the declaration be executed by all of the

inventors.

Reference to MPEP 715.04's indication of <u>WHO MAY MAKE AFFIDAVIT OR</u>

<u>DECLARATION</u> states that the declaration is to be made by <u>All inventors of the subject</u>

<u>matter claimed</u> unless: it was only inventor Srivastava who was responsible for the

claimed invention whose date is to be made earlier, a petition had been entered under

37 CFR 1.47, or a showing is made that it was not possible to contact each inventor for

the purpose of signing. None of these exceptions is the case, so the declaration is

deficient.

b.   [additional to part a., this section provided as a courtesy to applicant] The factual

evidence submitted in the declaration is insufficient to establish a conception of the

invention as claimed, prior to the effective date of the Chen et al. reference, which is 18

May 2001. The presumed date of applicant's invention therefore continues to be the

date of the present application's filing, 23 July 2001.

Applicant is directed in this matter specifically to MPEP 715.07, where guidelines as to acceptable <u>Facts and Documentary Evidence</u> in such a declaration are given:

> The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b).

In the present situation, applicant's declaration is accompanied by four sheets of code printout. In the declaration, applicant states that "The attached program shows that the inventors were performing work on a node focus matrix, a part of COLAP prior to May 18, 2001." But while the connection to "COLAP" might establish a general correspondence to the "COLAP" that is recited in the claimed invention, this does not amount to a demonstration that all of the claimed invention was in fact conceived prior to 18 May 2001. The claimed invention, for example, refers to following a "first label" and those "labels" "performed before said first label" and "after said first label", this resulting in "presenting said first set of transaction data" (claim 1 quoted as exemplary). Nowhere in applicant's factual presentation does this extent of detail as to the claimed invention appear. The best the Examiner can tell from the first page of the code listing is that "clicks to look backward" and "clicks to look forward" are somehow part of the "COLAP" "Function". But where in this is the claimed consideration of a "label" and its "associated data attributes" set forth? Where, also, is the aggregation into a presentation "based upon said data representing said first label"? The declaration is

excessively vague and general, and is not persuasive in re-establishing the date of

conception.

2.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

3.   Claims 28 – 30, 33 – 36 are rejected under 35 U.S.C. 102(e) as being anticipated

by Chen et al. ("Chen"; US #6,684,206 B2).

As in independent claim 28's "apparatus for analyzing transaction data", Chen's

OLAP-BASED WEB ACCESS ANALYSIS produces multi-dimensional summary

information, based on the web log records (Abstract) that are obtained as "label" data

that identify the "transaction" activity collected at data warehouse 120 (fig 1; col 4, lines

14 – 46). In particular, Chen teaches determining the volume and distribution of hits for

target sites, dimensioned by referring site and time (col 6, lines 19 – 24). By the use of

cubes that represent multidimensional Web access volumes (col 10, line 38 – col 11,

line 20), Chen therefore permits a "label of interest" to be evaluated as to "one or more

adjacent labels performed before or after said label of interest", since this alternative

phrase is met by noting the referring sites in the web log records (e.g., the "label"

"performed before...said label of interest". Central to Chen is "presenting said

transaction data" on the basis of a "label of interest".

The web log records in Chen specifically refer to "pages", and in denoting the

referring sites, they are descriptive of "clickstream" events that result in individual usage

of the servers involved (claim 29). Because a dimension in Chen can represent multiple

such pages on its axis, "selecting a plurality of individual labels" is permitted (claim 30).

The "method of aggregating data" by "creating a COLAP-graph representation" in independent claim 33 is anticipated by Chen because of the application of <u>OLAP</u> techniques to user web-browsing records (the progress from <u>referring sites</u> to <u>target sites</u>). These are the "Clickstream" records in applicant's disclosure of "COLAP".

As noted above with respect to independent claim 28, the Chen <u>web log records</u> are "transaction data" (claim 34), and in the process of developing the <u>multidimensional representation</u>, Chen will engage in "storing said COLAP-graph on a computer readable medium" (claim 35). The Chen <u>OLAP</u> interpretation of <u>web log records</u> is adapted to the individual study at hand, and thus reasonably reads upon the "hybrid COLAP graph" of claim 36. Please note that in <u>Feature Ranking</u>, Chen organizes the "COLAP graph" so as to study those pages most active.

4.   Claims 1 – 15, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Boyd et al. ("Boyd"; US #6,317,787 B1).

While the Chen <u>OLAP</u> database can handle the situation of <u>referring sites</u>, as found in <u>web log records</u>, "analyzing transaction data" by using "labels...performed before said first label" **and** "labels...performed after said first transaction" (independent claim 1) is not **explicitly** shown in the disclosure of Chen.

However, Boyd, in <u>ANALYZING WEB-SERVER LOG FILES</u>, works with <u>traffic data hits</u> that are read out and correlated <u>in the chronological order in which the hits were generated</u> (Abstract; col 6, lines 42 – 64). Thus, <u>hits</u> are considered both "before" and "after" a given "first label".

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to develop a Chen-style presentation of "said first set of transaction data", considering a sequence of <u>hits</u> over time as per Boyd, for this permits a broader study in Chen of usage information.

Claim 2's "pages" and "clickstream data" reads upon Chen, as noted above with respect to claim 29. A "session" is described in the aggregate of the Chen/Boyd combination, as in claim 3, since time sequence is added to the ordering of Chen's <u>hits</u>, by Boyd's <u>chronological</u> consideration.

Chen cannot avoid being "graphical" in the final "representation" of the <u>multidimensional cube</u> results (claim 4), and using a "single screen" (claim 5). To produce the aggregated result in Chen, "measurement calculations" must be performed on the <u>web log records</u> (claim 6), and "before the step of presenting" (claim 7).

Chen's <u>cube</u> is clearly a "data structure" (claim 8), and as noted above with respect to claim 33, this is a "COLAP-graph data structure" (claim 9), stored "on a computer-readable medium" (claim 10). The "hybrid COLAP-graph data structure" of claim 11 is treated above in the discussion of claim 36. The "multidimensional arrays" (claim 12) are found in Chen's <u>multidimensional cube</u>, while adaptation as per Boyd will result in "individual transactions" which "are ordered" (claim 13), and in a "chronological" way (claim 14).

The consideration of a "subset of a plurality of labels", as appears in independent claim 15, reads upon Chen's consideration of plural items along a <u>dimension</u>, this then being obviously extended to "labels performed before" and "after any of said subset of

transactions" as per Boyd. A similar line of reasoning applies to independent claim 37,

with the "COLAP-graph" being taught by Chen's analysis of <u>web log records</u>.

5.   Applicant's arguments filed 9 February 2005 have been fully considered but they

are not persuasive.

At page 12 of the remarks, applicant relies upon the "declaration of Ashok

Shrivastava" to establish that Chen "is not prior art for the current application".

However, and as set forth in the discussion above, this declaration is not signed by all of

the inventors, and in any event is not factually sufficient to establish a date of

conception prior to Chen's filing date of 18 May 2001, and thus, the reference remains

as prior art under 35 USC 102(e).

6.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

During an update search, the Examiner noted that Nakayama et al. (US

#6,782,423 B1) disclose <u>HYPERTEXT ANALYZING</u> in which transitions from a <u>page</u>

are considered.

7.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (571) 272-4045. The examiner can normally be reached on M - Th from 9:00 AM to 4:00 PM ET.

9.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (571) 272-4048. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (703) 872-9306.

10.   Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

5 May 2005